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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID ANDRE WEAVER,

Defendant.

Case No. 2:20-mj-00310-DJA

**ORDER to Continue Preliminary Hearing
(Third Request)**

IT IS HEREBY STIPULATED AND AGREED by and between, Nicholas A. Trutanich, United States Attorney, District of Nevada, Brett Ruff, Assistant United States Attorney, representing the United States of America, and Erin Gettel, Assistant Federal Public Defender, representing Defendant David Andre Weaver, that the preliminary hearing in the above-captioned case, which is currently scheduled for August 3, 2020 at 4:00 p.m., be continued by 45 days and reset to a time and date acceptable to the Court.

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- 1 1. The preliminary hearing in this matter initially was scheduled for May 14, 2020. In light
2 of the COVID-19 pandemic, and the resulting closures, resource limitations, and social
3 distancing guidelines, the parties stipulated to continue the preliminary hearing by 30 days
4 until June 15, 2020. In light of the same concerns, the parties filed a second request to
5 continue the preliminary hearing on June 11, 2020, which the Court granted.
- 6 2. The parties jointly believe that it would be prudent and there is good cause to continue the
7 hearing further, and they request a further continuance of 45 days.
- 8 3. The defendant is in custody but consents to the continuance.
- 9 4. Federal Rule of Criminal Procedure 5.1(d) provides that a magistrate judge may continue
10 a preliminary hearing with the defendant's consent and upon a showing of good cause,
11 taking into account the public interest in the prompt disposition of criminal cases. Because
12 of the COVID-19 pandemic, and the resulting various closures, resource limitations, and
13 social distancing guidelines, good cause exists to extend the deadline for the preliminary
14 hearing. Furthermore, good cause exists because Weaver intends to plead guilty to a
15 criminal information arising from the same facts and circumstances at issue in this matter,
16 and a continuance will afford Weaver the opportunity to do so and to render the scheduled
17 Preliminary Hearing unnecessary.
- 18 5. The time from August 3, 2020 through the continued hearing date will be excludable under
19 the Speedy Trial Act, Title 18, United States Code, Section 3161(h)(7)(A), which provides
20 that the Court may exclude time arising from a continuance upon finding that the ends of
21 justice served by granting the continuance outweigh the best interest of the defendant and
22 the public in a speedy trial.
- 23 6. The time from August 3, 2020 through the continued hearing date will be excludable in
24 computing the time within which the indictment must be filed pursuant to the Speedy Trial

Act, Title 18, United States Code, Section 3161(b), considering the factors under Title 18, United States Code, Section 3161(h)(7)(A) and (B)(i) and (iv). The time from August 3, 2020 through the continued hearing date also will be excludable in computing the 90-day speedy trial clock imposed by the Speedy Trial Act, Title 18, United States Code, Section 3161(c), considering the factors under Title 18, United States Code, Section 3161(h)(7)(A) and (B)(i) and (iv).

7. Denial of this request could result in a miscarriage of justice, and the ends of justice served by granting this request outweigh the best interest of the public and the defendant in a speedy trial.

DATED this 29th day of July, 2020.

NICHOLAS A. TRUTANICH
United States Attorney

RENE L. VALLADARES
Federal Public Defender

/s/ Brett Ruff
BRETT RUFF
Assistant United States Attorney

/s/ Erin Gettel
ERIN GETTEL
Counsel for Defendant
David Andre Weaver

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 UNITED STATES OF AMERICA,

4 Plaintiff,

5 v.

6 DAVID ANDRE WEAVER,

7 Defendant.
8

Case No. 2:20-mj-00310-DJA

**Proposed Findings and Order on Stipulation
to Continue Preliminary Hearing**

9 Based on the pending Stipulation between the defense and the government, and good
10 cause appearing therefore, the Court hereby finds that:

- 11 1. The preliminary hearing in this matter currently is scheduled for August 3, 2020 at 4:00
12 p.m.
- 13 2. Because of the COVID-19 public health emergency and the resulting various closures,
14 resource limitations, and social distancing guidelines, and because a continuance will
15 allow defendant to potentially plead guilty to a related criminal information, good cause
16 exists to extend the deadline for the preliminary hearing by 45 days pursuant to Federal
17 Rule of Criminal Procedure 5.1(d).
- 18 3. The defendant is in custody but consents to the continuance.
- 19 4. The time from August 3, 2020 through the continued hearing date is excludable under the
20 Speedy Trial Act, Title 18, United States Code, Section 3161(h)(7)(A), which provides that
21 the Court may exclude time arising from a continuance upon finding that the ends of
22 justice served by granting the continuance outweigh the best interest of the defendant and
23 the public in a speedy trial. Here, the ends of justice served by granting the continuance
24 outweigh the best interest of the defendant and the public in a speedy trial.

5. The time from August 3, 2020 through the continued hearing date is excludable in computing the time within which the indictment must be filed pursuant to the Speedy Trial Act, Title 18, United States Code, Section 3161(b), considering the factors under Title 18, United States Code, Section 3161(h)(7)(A) and (B)(i) and (iv).

6. The time from August 3, 2020 through the continued hearing date is excludable in computing the 90-day speedy trial clock imposed by the Speedy Trial Act, Title 18, United States Code, Section 3161(c), considering the factors under Title 18, United States Code, Section 3161(h)(7)(A) and (B)(i) and (iv).

7.

THEREFORE, IT IS HEREBY ORDERED that the preliminary hearing in the above-captioned matter currently scheduled for August 3, 2020, be vacated and continued to September 14, 2020, at 4:00 pm Courtroom 3A.

29th July
DATED this _____ day of _____, 2020.



HONORABLE DANIEL J. ALBREGTS
United States Magistrate Judge